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Directive 01- 1: Tax on "Loaner" Vehicles

Background: Many Massachusetts automobile dealers provide free "loaner" vehicles to customers whose vehicles are being repaired. Generally, these are new vehicles that are removed from inventory for several months, used as loaners and then sold for a discounted price. In some instances, the dealer's agreement with the vehicle manufacturer specifies how often new loaner vehicles must be placed in service. The vehicle manufacturer may pay the dealer a specified sum per month for each loaner provided under such an agreement.

Issue: What are the sales or use tax consequences when an automobile dealer removes a vehicle from inventory and uses it as a free loaner vehicle for its customers?

Directive: When a vehicle is removed from a vehicle dealer's inventory and used as a free loaner vehicle to customers who are having their own vehicles repaired, the dealer has made a taxable sale or use of that vehicle and may elect to remit tax as follows:

1. Paid in a single payment at the time of registration;[\[1\]](#) or
2. Paid on a monthly basis. Dealers electing this option must register the vehicle as a lessor [\[2\]](#) and remit sales or use tax monthly based on the *higher* of the following:
  - a. Actual monthly payment or other credit or compensation received from the vehicle manufacturer for providing the loaner vehicle to the dealer's customers; or
  - b. Five percent (5%) of three percent (3%) of the wholesale cost, including all accessories, of each vehicle designated as a loaner.

If the dealer elects to pay tax on vehicles designated as loaner vehicles on a monthly basis, tax is due each month on each such vehicle, regardless of whether the vehicle is actually loaned to the dealer's customers during a particular month.

Discussion of Law:

The sale of a motor vehicle, trailer, or other vehicle to a Massachusetts dealer or Massachusetts lessor who purchases the vehicle for resale in the regular course of business is not a taxable retail sale. G.L. c. 64H, § 8 and G.L. c. 64I, § 8. During the period the vehicle is held for resale, the dealer may use the vehicle for demonstration and display without incurring liability for sales or use tax. If the dealer makes any other use of the vehicle, other than demonstration and display, a tax is due. 830 CMR 64H.25.1(10)(a).

The Motor Vehicle Regulation, 830 CMR 64H.25.1(10)(b), provides generally that if the dealer must register a vehicle in the dealer's name with the Registrar of Motor Vehicles, the tax is computed on the wholesale price and due as a single payment. If the vehicle is not required to be registered with the Registrar, the dealer has the option of paying the five percent (5%) tax on the wholesale price in a single payment or the dealer may elect the option of remitting the tax on a monthly basis calculated at five percent (5%) of three percent (3%) of the wholesale cost of the vehicle.

Registry of Motor Vehicle Regulations prohibit General Registration Number Plates ("Dealer Plates") from being used on loaner vehicles. Thus, dealers have been required to register these vehicles as the owner and, prior to the issuance of this Directive, remit tax on the full wholesale cost of the vehicle, even if the use of the loaner was limited to a period of a few months. The tax on loaner vehicles was therefore generally higher than on other taxable uses of a vehicle by a dealer.

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The new rules in this Directive will permit dealers who receive payment or other compensation for providing loaner vehicles to treat this transaction as a lease or rental and to remit tax on the compensation received from the manufacturer or the customer. However, since the Motor Vehicle Regulation has placed a fair market value on the monthly use of a vehicle by a dealer of three percent (3%) of the wholesale cost, the rental or lease value on which tax is calculated may not be lower than that amount.

This Directive is effective as of the date of issuance and applicable to all open tax periods. Dealers wishing to file for abatements may do so by filing form CA-6 within the time limitations provided by 830 CMR 62C.37.1.

Frederick A. Laskey,  
Commissioner of Revenue

April 5, 2001

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\*1 830CMR 64H.25.1 (4) and (5).

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\*2 In order to register a vehicle as a lessor, the dealer must apply to be placed on the list by filing form MVU-5A

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